

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

THOMAS GILBERT LEHOTSKY,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

CV-21-98-GF-BMM

ORDER

INTRODUCTION

Petitioner Eric Rasmusson (“Rasmusson”), counsel for Plaintiff Thomas Gilbert Lehotsky (“Lehotsky”), filed a motion to award attorney fees based on a contingency fee agreement pursuant to the Social Security Act § 206(b)(1) and 42 U.S.C. § 406(b)(1). (Doc. 24.) The Commissioner of Social Security (“the Commissioner”) takes no position on Rasmusson’s motion. (Doc. 25.)

Rasmusson and Lehotsky entered into a contingency fee agreement whereby Rasmusson would receive a fee of 25% of the past due benefit awarded to Lehotsky if he was awarded benefits. (Doc. 24-2.) The Social Security Administration contacted Rasmusson and indicated that it is withholding \$25,121.47, which represents 25% of Lehotsky’s past due benefits. (Doc. 24-3.) Rasmusson previously

received \$8,249.00 in fees pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. (*See* Doc. 23.)

42 U.S.C. § 406(b)(1)(A) permits a court to approve a reasonable fee for representation before a court, but provides that such a fee is not to exceed 25% of the total of the past due benefits. The Court determines that Rasmusson's contingency fee of 25%, equaling \$25,121.47, proves reasonable.

ORDER

Accordingly, **IT IS ORDERED:**

1. Rasmusson's motion to award attorney fees based on a contingency fee agreement pursuant to the Social Security Act § 206(b)(1) and 42 U.S.C. § 406(b)(1) is **GRANTED**. Rasmusson shall be awarded \$25,121.47 in fees.
2. Rasmusson is ordered to refund Lehotsky the fees awarded pursuant to the EAJA, totaling \$8,249.00, upon receipt of the \$25,121.47 in fees.

DATED this 17th day of June, 2024.



Brian Morris, Chief District Judge
United States District Court